

**U.S. Department of Housing and Urban
Affairs-Office of Fair Housing**

**2004 National Fair Housing Training
Conference and Housing Policy Summit**

*Fair Housing – Keepers of The
Dream*

Symposium # 4

Rental Discrimination



1866 CIVIL RIGHTS ACT

- All citizens of the United States shall have the same right, in every State or Territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold and convey real and personal property.

1968 FEDERAL FAIR HOUSING ACT

- * RACE * COLOR * NATIONAL ORIGIN**
- * RELIGION * GENDER (1974)**

1988 AMENDMENT

- * DISABILITY**
- * FAMILIAL STATUS**
- * ADDITIONAL ENFORCEMENT
CAPABILITIES**

STATE FAIR HOUSING LAWS

The Georgia Fair Housing Law of 1988 prohibits discrimination in housing and housing-related activities because of a person's:

- * RACE
- * COLOR
- * NATIONAL ORIGIN
- * SEX
- * RELIGION
- * DISABILITY
- * FAMILIAL STATUS

NOT COVERED: AGE, MARITAL STATUS, SEXUAL ORIENTATION, STUDENTS, ROOMMATES, ETC...

STATUTORY EXEMPTIONS

EXEMPTIONS DO NOT APPLY TO DISCRIMINATORY ADVERTISING

(Make, Publish or Print)

- ***“Mrs. Murphy” Exemption***
 - Owner occupied building with no more than four families living independently of each other.
- ***Single Family Residences***
 - Private individual owner
 - Owns or has ownership interest in no more than three single-family residences at any point in time; if the owner’s home is a single family dwelling, it must be counted as one of the dwellings;
 - Does **not** use the facilities or services of any person in the business of selling or renting dwellings (Eg., real estate agents, brokers, etc.)
 - If owner not residing in house was not most recent resident, the exemption shall apply only to one rental within any 24 month period.

**RACE, COLOR, NATIONAL ORIGIN ARE *ALWAYS*
PROTECTED UNDER THE 1866 CIVIL RIGHTS ACT**

Exemptions, continued

- *Religious Organizations*

Nothing prohibits a religious organization from limiting the rental, or occupancy of dwellings to members of the same religion, or giving preference to such persons UNLESS membership is restricted because of race, color, or national origin.

- *Private Clubs Not Open To The Public*

Nothing prohibits a private club not open to the public, which as an incident to its primary purpose, provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

Senior Citizen Housing

1. 55 and Over Housing

- Policies and procedures which demonstrate an intent to provide housing for persons 55 or over.
- At least 80% of units occupied by one or more persons 55 or over.
- Significant facilities and services specifically designed to meet the physical or social needs of older persons.
Not required by federal law

2. 62 and Over Housing

- Intended as housing for older persons
- Occupied solely by persons 62 or older

3. Government Programs

- State or Federal Programs specifically designed and operated to assist elderly persons

*Note that these exemptions permit discrimination
only on the basis of familial status!*

RACE, COLOR, NATIONAL ORIGIN & RELIGION

I. RACE, COLOR, NATIONAL ORIGIN - What is the difference?

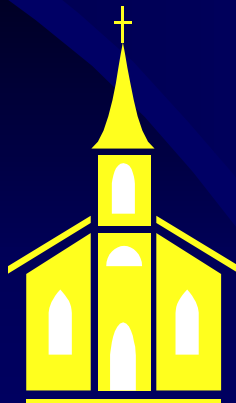
A. **Race** - Black, White, Hispanic, Asian, Other

B. **National Origin** - American Indian, Pacific Islander, Alaskan Native, Haitian, Mexican, Cuban, Japanese, Other

C. **Color** - Shade of Skin Color



II. RELIGION - All religions are protected.



DISABILITY



I. MODIFICATIONS - Structural Changes

A. OLD CONSTRUCTION

1. **Tenant Pays** - Modifications to any building available for *first occupancy* **prior to March 13, 1991**. (Non-subsidized property.)

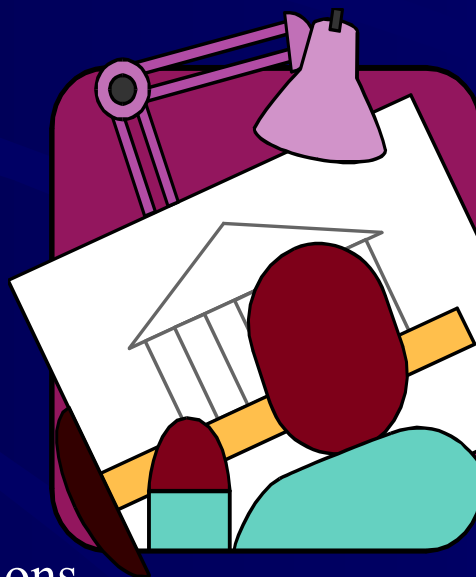
B. NEW CONSTRUCTION

1. **Tenant Pays** - Modifications Beyond the 7 Design Requirements for multi-family housing **AND** modifications of non-multi-family housing.
2. **Landlord Pays** - Construction of any *Multi-Family Building* available for *first occupancy* **after March 13, 1991** in compliance with the Fair Housing Laws' Seven (7) Design Requirements - including additional buildings added to an existing complex.

MULTI-FAMILY BUILDING DEFINED- Buildings consisting of 4 or more units if such buildings have one or more elevators; and ground floor dwelling units in other buildings consisting of 4 or more dwelling units.

SEVEN DESIGN REQUIREMENTS FOR “NEW CONSTRUCTION” IN MULTI- FAMILY HOUSING

1. Accessible Building Entrance on an Accessible Route
(unless impractical because of terrain or unusual site characteristics)
2. Accessible and Usable Public and Common Use Facilities
3. Usable Doors
4. Accessible Route into and Through the Covered Unit
5. Light Switches/Electrical Outlets/Thermostats & Other Environmental Controls in Accessible Locations
6. Reinforced Walls for Grab Bars
7. Usable Kitchens and Bathrooms



*Direct Design Questions to the Center For Universal
Design 1-800-647-6777*

DISABILITY

I. ACCOMMODATIONS - Rule/Policy

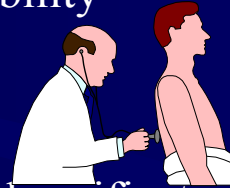
Changes (these same standards may apply in some modification requests as well.)

A. TENANT REQUEST -

Oral or verbal request for a “disability” within the meaning of the Act.

B. MEDICALLY NECESSARY

A landlord CAN ask for medical verification that the disability *requires* a specific accommodation.



C. “REASONABLE”

1. Financial Burden?

Ex: Would refusing to repair a broken elevator for a disabled resident, but agreeing to carry the resident up and down the stairs each day be legal?

2. Administrative Burden?

Ex: Allowing a resident to mail in a rent check, when rules state rent must be hand delivered

3. Change the Fundamental Purpose of the Program?

Ex: Hiring a housekeeper for a disabled resident unable to maintain her own apartment.

GUIDE DOGS

Under Certain Codes, Every totally or partially *blind* person and every *deaf* person who has a *guide dog* or who obtains a guide dog shall be entitled to full and equal access to all housing accommodations provided for in this Code section, and he *shall not be required to pay extra compensation* for such guide dog. However, he shall be liable for any damage done to the premises by such guide dog.



DISABILITIES

I. MENTAL & PSYCHOLOGICAL DISORDERS

- Emotional Disorders
- Mental Illness
- Learning Disabilities
- Organic Brain Syndrome
- Mental Retardation

II. DISEASES / CONDITIONS

- AIDS & HIV
- Alcoholism
- Allergies
- Autism
- Cancer
- Cerebral Palsy
- Chemical Sensitivity
- Diabetes
- Drug Addiction (Other than addiction caused by current, illegal use of a controlled substance)
- Epilepsy
- Hearing Impairment
- Heart Disease
- Multiple Sclerosis
- Muscular Dystrophy
- Orthopedic Conditions
- Speech Impairments
- Visual Impairments

III. SYSTEMIC CONDITIONS

- Cardiovascular
- Digestive
- Endocrine
- Genito-Urinary
- Hemic and Lymphatic
- Musculoskeletal
- Neurological
- Respiratory
- Sensory
- Reproductive
- Skin



SEX DISCRIMINATION

I. GENDER DISCRIMINATION

II. SEXUAL HARASSMENT

A. QUID PRO QUO

B. INAPPROPRIATE COMMENTS OR

TOUCHING - Creation of
a hostile living
environment



FAMILIAL STATUS

I. DEFINITION



A. Familial Status-One or more individuals, who have not attained the age of 18 years, being domiciled with:

1. A parent or another person having legal custody; or
2. The designee of such parent or other person having such custody with the written permission of such parent or other person.

B. Any person who is *pregnant* or in the process of securing legal custody of any individual who has not attained the age of 18 years.





UNLAWFUL HOUSING PRACTICES

HOUSING DISCRIMINATION CAN OCCUR IN A VARIETY OF WAYS. LISTED BELOW ARE SOME UNLAWFUL HOUSING PRACTICES BASED ON *RACE, COLOR, NATIONAL ORIGIN, RELIGION, SEX, FAMILIAL STATUS, OR HANDICAP.*

- REFUSING TO RENT A HOME
- ADVERTISING OR POSTING NOTICE ABOUT THE RENTAL OF A DWELLING WHERE THAT AD OR NOTICE INDICATES ANY PREFERENCE, LIMITATION OR DISCRIMINATION
- DIFFERING TERMS, CONDITIONS OR PRIVILEGES FOR CERTAIN PEOPLE
- DENYING FALSELY THAT HOUSING IS AVAILABLE FOR INSPECTION TO RENT
- COERCION, INTIMIDATION, INTERFERENCE, OR RETALIATION
- “STEERING” BY REAL ESTATE AGENTS TO OR FROM CERTAIN NEIGHBORHOODS OR “STEERING BY LANDLORDS TO OR FROM CERTAIN AREAS OF A COMPLEX/NEIGHBORHOOD/TRAILER PARK
- DISCRIMINATING AGAINST SOMEONE THROUGH BROKER’S SERVICES
- ENGAGING IN BLOCKBUSTING PRACTICES IN CONNECTION WITH THE RENTAL OF DWELLINGS
- DENYING ACCESS TO OR MEMBERSHIP OR PARTICIPATION IN, OR TO DISCRIMINATE AGAINST ANY PERSON IN HIS OR HER ACCESS TO OR MEMBERSHIP OR PARTICIPATION IN ANY MULTIPLE-LISTING SERVICE, REAL ESTATE BROKERS’ ASSOCIATION, OR OTHER SERVICE ORGANIZATION OR FACILITY RELATING TO THE RENTING A DWELLING OR IN THE TERMS OR CONDITIONS OR MEMBERSHIP OR PARTICIPATION

Refusal to Rent

- Refusing to rent property to a person due to their membership in one of the seven protected class.

Includes otherwise make unavailable techniques: providing false information about availability; steering; blockbusting; exclusionary zoning.

- Practices range from blatant to very subtle.

Example: Applicant A (black) and Applicant B (white) both apply for an available apartment unit. Both have similar incomes, rental histories, and credit histories. However, landlord refuses to rent to Applicant A, citing “bad credit” as the reason. If landlord cannot provide a legitimate business explanation for refusing to deal with Applicant A when Applicant B was considered acceptable, then this appears to be a refusal to rent based upon race.

Different Terms & Conditions

- Different terms of rental: rental rate, deposits.
- Unequal provision of services: usually maintenance cases.
- Unequal enforcement of rules or lease provisions: discriminatory evictions; fines; refusal to renew leases.

Example: At a multifamily housing property, management permits a Catholic bible study group to use the clubhouse for weekly meetings, while refusing a Jewish group the right to use the clubhouse for weekly readings of the Torah. Since there is not a non-discriminatory reason for this apparent difference in treatment, the Jewish tenants are being denied a privilege of rental which is being provided to the Catholic tenants. This constitutes differential treatment in the provision of services or facilities based on religion.

Discriminatory Advertising or Statements

- It is illegal to create or publish an advertisement related to the rental of a dwelling which contains a discriminatory limitation or preference.
- In connection with the rental of a dwelling, it is unlawful to make a statement indicating discriminatory limitations or preference.
- An advertising campaign may suggest a discriminatory preference c
- How a housing provider markets may show a discriminatory intent.

Example: Homeseeker (black) spots a “for rent” sign in the yard of a single family home, and approaches the owner. She asks if the house is available, and owner replies “It is, but I’d prefer not to rent to you, because it would upset my neighbors to have a black person move in.”

False Statement of Unavailability

- It is illegal to indicate that a dwelling is unavailable to rent when it is, in fact, available.
- Also to “otherwise make unavailable” is a violation.
- Testing evidence is especially effective in uncovering this type of violation.

Steering

- Definition: A method by which landlords, leasing agents, or real estate brokers and agents preserve and encourage patterns of segregation in available housing by steering members of racial and ethnic groups to buildings occupied primarily by members of such racial and ethnic groups and away from buildings and neighborhoods inhabited primarily by members of other races or groups. The bottom line is that Steering perpetuates *segregation*.

- Prohibition applies to all protected classes, not just race.

Can occur within a neighborhood, apartment complex, or particular building.

- Liability turns on attempting to influence the housing choice of a customer due to one of the seven prohibited bases.

Coercion, Interference, Retaliation

- Coercion is the use of threats and/or violent acts in regards to housing: racist graffiti, cross burnings, physical or mental assaults.
- Interference is any act intended to deprive another person of their dwelling: common example is making false allegations against another tenant.
- Retaliation: Adverse action against one who has filed a fair housing complaint or who has cooperated with an investigation by a state agency or HUD. Has been held to protect “whistleblowers” from adverse employment actions.

THE INVESTIGATIVE PROCESS

I. INVESTIGATION

A. Filing A Complaint

1. By phone, mail & walk-ins

2. Jurisdiction

a. Standing

b. Respondent Jurisdiction

c. Subject Matter Jurisdiction

d. Timeliness

e. Exemptions

B. Collect Comparative Data

C. Interview All Witnesses

D. Interview Neutral Persons

E. Conduct On-Site Inspections



II. CONCILIATION-Agreement

between both parties *AND* the agency which resolves complaint

III. LITIGATION-When Agency determines “Reasonable Cause” exists to believe an act of discrimination occurred, the matter will be litigated either in State Court or before an Administrative Law Judge (ALJ).

HOME LEASING COMPARATIVE DATA



- * RENT ROLLS
- * APPLICATIONS
- * LEASES
- * MAINTENANCE SLIPS/WORK
ORDERS/RECEIPTS
- * EVICTION NOTICES
- * TENANT COMPLAINTS
- * INCIDENT REPORTS
- * POLICE REPORTS
- * TENANT INTERVIEWS
- * STAFF INTERVIEWS
- * DEMOGRAPHIC BREAKDOWNS
 - Location of Complex
 - Diagram of Complex
 - Staff Management Mixture
 - Tenant Mixture
 - Tenant Placement

FINANCIAL PENALTIES

- Actual damages
 - Moving expenses
 - Rent differences
 - Mileage, time spent, etc.
- Compensatory damages
 - Emotional distress, humiliation
 - Deprivation of civil rights
- Punitive damages
 - Malice, willful misconduct, etc.
 - The BIG money
- Civil Penalty to the State
- Attorney's fees and court costs



OTHER TYPES OF RELIEF

- Injunctions / Specific Performance
- Affirmative Action Plans
- Fair Housing Training
- Corrective Advertising Plans
- Criminal Prosecution